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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,617	02/05/2004	John P. Streich	0275Y-227DVD	5076
27572	7590	02/14/2006	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			LUGO, CARLOS	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3676	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,617	STREICH ET AL.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-32, 66, 67, 69 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 69 and 70 is/are allowed.
- 6) ☒ Claim(s) 21-27 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 28, 29, 66 and 67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachements #1 and #2</u> |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on December 8, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 21, 22 and 30 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,710,761 to Gregory.

Regarding claim 21, Gregory discloses a latch for a container comprising a body (17) and a channel for receiving a rail (37a and 39b).

The rail has an arcuate surface spanning from one side to the other side of the rail. The channel defines a base surface, two sidewalls extending from the base and two flanges extending from the sidewalls towards one another (see attachment #2). The base has an arcuate surface that mate with the arcuate surface of the rail.

As to claim 22, Gregory illustrates that the base surface is arcuate along both a longitudinal and lateral axis.

As to claim 30, Gregory illustrates that the body has an arcuate outer surface enables manipulation by a user.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 21,22,26,27, and 30 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,048,051 to Gretz in view of US Pat No 3,710,761 to Gregory.

Regarding claim 21, Gretz discloses a latch for a container comprising a body (40) and a channel (Figure 4) for receiving a rail (46). The channel defines a base surface, two sidewalls extending from the base and two flanges extending from the sidewalls towards one another (see attachment #1).

However, Gretz fails to disclose that the rail has an arcuate surface spanning from one side of the rail to the other and that the base of the channel has an arcuate surface that mate with the arcuate surface of the rail from one side to the other. Gretz discloses that the rail has a straight surface that mate with a straight surface of the channel base.

As to claim 22, Gretz, as modified by Gregory, teaches that the base surface is arcuate along both a longitudinal and lateral axis.

As to claim 26, Gretz discloses that the latch is comprised of a first member (54) covered by a second member (56).

As to claim 27, Gretz illustrates that the first member (54) is capable of provide rigidity to the latch.

As to claim 30, Gretz illustrates that the body has an arcuate outer surface enables manipulation by a user.

6. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,710,761 to Gregory as applied to claim 21 above, and further in view of US Pat No 4,576,307 to Frydenberg.

Gregory fails to disclose that one of the flanges includes a cutout enhancing coupled with the rails.

Frydenberg teaches that it is well known in the art to have a latch (16 and 30) that comprises opposing flanges, wherein at least one flange includes a cutout enhancing that would be coupled with the rails (at the sides of 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch member described by Gregory with a cutout at either flange, as taught by Frydenberg, in order to help in the insertion of the latch around the rails.

7. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,048,051 to Gretz in view of US Pat No 3,710,761 to Gregory as applied to claim 21 above, and further in view of US Pat No 4,576,307 to Frydenberg.

Gretz, as modified by Gregory, fails to disclose that one of the flanges includes a cutout enhancing coupled with the rails.

Frydenberg teaches that it is well known in the art to have a latch (16 and 30) that comprises opposing flanges, wherein at least one flange includes a cutout enhancing that would be coupled with the rails (at the sides of 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch member described by Gretz, as modified by Gregory, with a cutout at either flange, as taught by Frydenberg, in order to help in the insertion of the latch around the rails.

8. **Claims 24 and 25 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,710,761 to Gregory as applied to claim 21 above, and further in view of US Pat No 4,153,178 to Weavers.

Gregory fails to disclose that the latch includes indicia indicating a locked and unlocked position and indicating direction of movement.

Weavers teach that it is well known in the art to have a latch (22) that includes indicia indicating a locked and unlocked position and indicating direction of movement (Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch described by Gregory with indicia, as taught by Weavers, in order to indicate the user how to unlock or lock the latch.

9. **Claims 24,25 and 31 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,048,051 to Gretz in view of US Pat No 3,710,761 to Gregory as applied to claim 21 above, and further in view of US Pat No 4,153,178 to Weavers.

Art Unit: 3676

As to claims 24 and 25, Gretz, as modified by Gregory, fails to disclose that the latch includes indicia indicating a locked and unlocked position and indicating direction of movement.

Weavers teach that it is well known in the art to have a latch (22) that includes indicia indicating a locked and unlocked position and indicating direction of movement (Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch described by Gretz, as modified by Gregory, with indicia, as taught by Weavers, in order to indicate the user how to unlock or lock the latch.

As to claim 31, Gretz, as modified by Gregory, fails to disclose that the second member (56) is a soft material providing a gripping surface. Gretz discloses that the second member (56) provides a gripping surface.

Weavers teaches that it is well known in the art to have the member having the gripping surface (22) made of a soft material (flexible plastic, Col. 2 Lines 22 and 23).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the second member described by Gretz, as modified by Gregory, with a soft material, as taught by Weavers, in order to give a softer gripping surface at the time the latch is used.

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,048,051 to Gretz in view of US Pat No 3,710,761 to Gregory as applied to claim 26

above, and further in view of US Pat No 5,275,027 to Eklof et al (Eklof) and in view of US Pat No 4,153,178 to Weavers.

Gretz, as modified by Gregory, fails to disclose that the first member is formed from polypropylene and the second member formed from krayton.

Weavers teaches that it is well known in the art to use polypropylene as a material to make a member of a latch (Col. 3 Lines 10-15).

Eklof teaches that krayton is also a well-known material to make a member of a latch (Col. 4 Lines 29 and 30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use materials as polypropylene and krayton, as taught by Weavers and Eklof, to make or manufacture a latch as described by Gretz, as modified by Gregory, since the selection of a known material based upon its suitability for the intended use is a design consideration within the level of skill of one skilled in the art.

Allowable Subject Matter

11. Claims 69 and 70 are allowed.

12. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 29,66 and 67 would also be allowed since the claims depend from claim 28.

Response to Arguments

13. The current amendment overcomes the previous rejection to the claims in view of Zeindlhofer. Zeindlhofer discloses that the channel has an arcuate base surface and that the rail has an arcuate surface, however, because Zeindlhofer provide a spring member (13) between the body (7) and the rails (8), the two arcuate surfaces will not mate from one side of the rail to the other. Also, Zeindlhofer would not teach that the base, the flanges and the sidewalls surrounds the sides of the rail that mate with the arcuate base surface of the channel. Therefore, the rejection has been withdrawn.

However, upon further search and consideration of the new scope of the claims, a new ground(s) of rejection in view of Gretz, as modified by Gregory, or in view of Gregory has been made on the record.

Conclusion

14. Applicant's amendment, that the rail has an arcuate surface spanning from one side of the rail to another side and the base arcuate surface will mate completely with the arcuate surface of the rail, as claimed in claim 21 lines 3-6, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3676

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

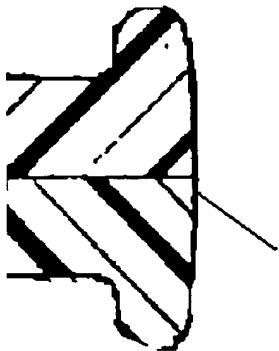
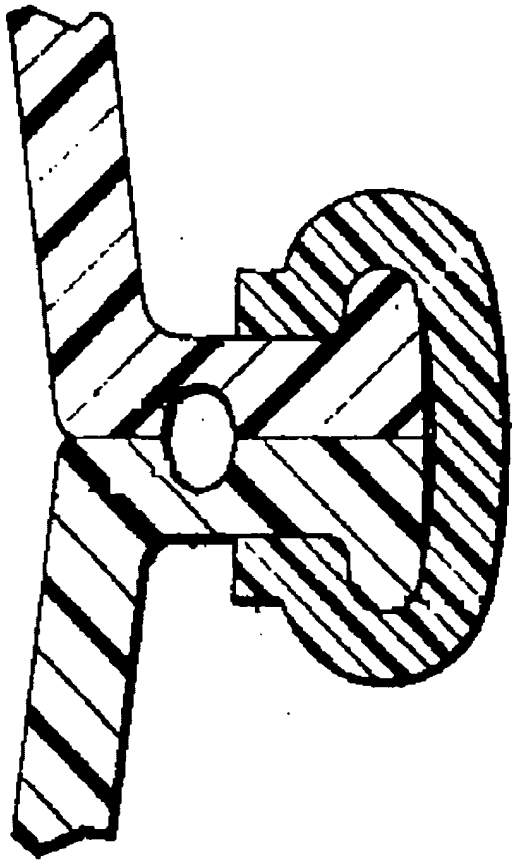
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

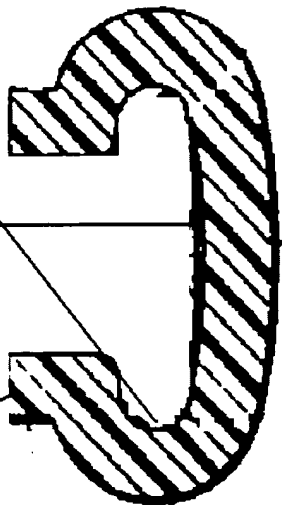
Carlos Lugo
Patent Examiner
AU 3676

February 8, 2006


BRIAN E. GLESSNER
SUPERVISOR
SUPERVISOR PATENT EXAMINER



Arcuate surface



Sidewalls

Base

Flanges

